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Supreme Court, U.S.
FILED
MAY 2 9 2003
OFFICE OF THE CLERK

No. 02-1610

In The

Supreme Court of the United States

JILL JACOBY, Superintendent of
Bethel School District, et al.,

Petitioners,

v.

TAUSHA PRINCE, a minor, by and
through her parents, JAMES PRINCE and
KIMBERLY PRINCE,

Respondents.

On Petition For Writ Of Certiorari To The Ninth Circuit Court Of Appeals

SUPPLEMENTAL BRIEF OF PETITIONERS

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SUPPLEMENTAL BRIEF OF PETITIONERS

Petitioners Jill Jacoby, Tim Sherry, Bonnie Kenigson, in their official capacities, and the Bethel School District respectfully submit this supplemental brief in support of their petition for a writ of certiorari, filed with this Court on May 2, 2003. Petitioners submit this supplemental brief to bring a recent development to the Court's attention.

On May 19, 2003, this Court granted certiorari in *Locke v. Davey*, 71 USLW 3589 (No. 02-1315). In *Davey*, the issue is whether the Free Exercise Clause of the First Amendment supersedes several sections of the state constitution by requiring the state to fund religious instruction, if the state provides college scholarships for secular instruction. The Washington Constitution prohibits the appropriation or application of public money "to any religious worship, exercise or instruction, or the support of any religious establishment. . . ." Wash. Const. art. I, § 11. In addition, Article IX, § 4 of the state constitution provides: "All schools maintained or supported wholly or in part by public funds shall be forever free from sectarian control or influence."

In *Jacoby*, the Ninth Circuit held that a school district must provide public funds to a student religious club if the school district provides public funds to a student secular club. This holding could require a school district to violate the Washington Constitution's prohibition against appropriating public money to any religious worship, exercise or instruction.

If, however, this Court holds in *Davey* that the state is not required to fund religious instruction in violation of the state constitution, then the Ninth Circuit's holding in *Jacoby* would be called into question. For this reason, the

decision to grant certiorari in *Davey* should be considered in determining whether certiorari should be granted in *Jacoby*.

Respectfully submitted,

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May 29, 2003